

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION**

NATIONAL CASUALTY
COMPANY

Plaintiff,

VS.

GEORGIA SCHOOL BOARDS
ASSOCIATION- RISK
MANAGEMENT FUND,

Defendant.

CIVIL ACTION

FILE NO.: 1:16-CV-00691-WSD

**DEFENDANT GEORGIA SCHOOL BOARDS ASSOCIATION-RISK
MANAGEMENT FUND’S RESPONSE TO NATIONAL CASUALTY
COMPANY’S STATEMENT OF UNCONTESTED FACTS IN SUPPORT
OF ITS MOTION FOR SUMMARY JUDGMENT**

Pursuant to Local Rule 56.1 B.a.(2), Defendant Georgia School Boards Association-Risk Management Fund (“GSBA-RMF”) submits its Response to National Casualty Company’s (“NCC”) Statement of Uncontested Facts In Support of Its Motion for Summary Judgment. GSBA-RMF responds to each of the numbered paragraphs as follows:

1. Admitted.
2. Admitted.

3. GSBA-RMF admits that to the extent that NCC quotes the “Other Insurance” clauses from the National Casualty Policies, said sections are accurately quoted. GSBA-RMF deny that quoting a portion of the Policy accurately reflects its meaning or intent as the policies must be read as a whole when applying the rules of contract construction under Georgia law.
4. Admitted.
5. Admitted.
6. Admitted.
7. Admitted.
8. GSBA-RMF admits that to the extent that NCC quotes a portion of the GSBA-RMF Coverage Documents, said portion is accurately quoted. GSBA-RMF denies that NCC has quoted the entirety of the “Insurance” clauses found in the GSBA-RMF Coverage Documents.
 - a. The Columbia County Coverage Document contains two “Insurance” clauses.
 - i. The Columbia County Coverage Document contains the following clause in the General Conditions:

4. Insurance

If valid and collectible insurance is available to the Member for a loss covered by GSBA-RMF under any coverage parts within this Coverage Document, the obligations of GSBA-RMF are excess over the available and collectible insurance.

(DOC 5-1 at Section III, 4.) (Appendix Tab 4-B)

- ii. The Columbia County Coverage Document contains the following clause in the Common Conditions Specific to Section V—School Leaders Liability:

5. Insurance

- a. If, but for the coverage afforded by this Coverage Agreement, the Member would have insurance against a loss otherwise covered hereby, the coverage afforded by this Coverage Agreement shall be excess over such insurance.

(*Id.* at Common Conditions Specific to Section V—School Leaders Liability, 5.) (Appendix Tab 4-C)

- b. The Douglas County Coverage Document, the Muscogee County Coverage Document and the McIntosh County Coverage Document contain the following clause in the General Conditions.

4. Insurance.

- a. If valid and collectible insurance is available to the Member for a loss covered by GSBA-RMF under any coverage within this Coverage Document, the obligations of GSBA-RMF are excess over the available and collectible insurance.
- b. When this coverage is excess, GSBA-RMF will have no duty to defend any Member against any "suit" if any insurer has a duty to defend the Member against that "suit". If no insurer defends, GSBA-RMF will undertake to do so, but GSBA-RMF will be entitled to the Member's rights against all such insurers.
- c. When this coverage is excess over valid and collectible insurance available to the Member, GSBA-RMF will pay only its share of the amount of the loss, if any, that exceeds the sum of:
 - (1) The total amount that all such insurance would pay for the loss in the absence of this coverage; and
 - (2) The total of all deductible and self-insured amounts under all such insurance.

(DOC 5-2, DOC 5-3, DOC 5-4 at Section III General Conditions, 4) (Appendix Tabs 5-B, 6-B and 7-B of the Appendix)

9. Admitted.

- 10. Admitted.
- 11. Admitted.
- 12. Admitted.
- 13. Admitted.
- 14. Admitted.
- 15. Admitted.
- 16. Admitted.
- 17. Admitted.

Respectfully submitted this 10th day of October 2016.

THE JOHNSON INSURANCE LAW GROUP, LLC

s/ Thomas Wingfield

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This 10th day of October, 2016.

s/ Thomas Wingfield